

Deficiency Progress Report – Update 2

Report Submitted: 06/28/2010

CUPA: Merced County Division of Environmental Health

Evaluation Date: October 27 and 28, 2009

Evaluation Follow-up Team:

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Corrected Deficiencies: 1, 2

Next Progress Report (Update 3) Due: September 27, 2010

[Please update the deficiencies below that remain outstanding.](#)

1. **Deficiency:** The CUPA did not correctly report information on its Annual Summary Reports.
 - In the fiscal year (FY) 2008/2009 Annual Inspection Summary Report (Report 3), the CUPA reported 100 percent of its CalARP routine inspections with Class 1 or Class 2 violations returned to compliance (RTC) within 90 days. In Annual Enforcement Summary Report (Report 4) for the same FY, the CUPA did not report any CalARP facilities with Class 1 or Class 2 violations.
 - In the FY 2008/2009 Report 4, the CUPA reported 0 hazardous waste generator (HWG) facilities with Class 1 violations when the self audit for the same FY stated that 1 HWG facility was cited for a Class 1 violation.
 - In the FY 2007/2008 Report 4, the CUPA reported 0 formal actions for the underground storage tank (UST) and HWG programs; however, 1 civil/criminal referral in the UST program and 3 AEOs in the HWG program were reported.

[This deficiency was corrected before the initial evaluation report.](#)

2. **Deficiency:** In FY 2006/2007, the CUPA did not assess the CUPA Oversight surcharge of \$24 from all Unified Program (UP) businesses in Merced County. The CUPA's FY 2006/2007 Annual Single Fee Summary Report (Report 2) shows that it assessed \$23,567. The CUPA should have assessed approximately \$28,200 from the 1175 regulated businesses it reported. The CUPA's assessed oversight surcharge in FY 2006/2007 is short by approximately \$4,633 or 16%.
After discussion with CUPA management, the large discrepancy in the FY 2006/2007 surcharge may be due to the CUPA not assessing single fees from approximately 153

regulated farms. The farms are currently assessed single fee that includes the Oversight surcharge.

Preliminary Corrective Actions: By January 28, 2010, the CUPA will review its financial records to verify whether the CUPA Oversight surcharge and single fee information as reported on FY 2006/2007 Report 2 is correct.

Report the findings in the CUPA's 1st progress report to Cal/EPA. If needed, submit the corrected FY 2006/2007 Report 2 to Cal/EPA.

During the next billing period, the CUPA will assess and collect the Oversight surcharge from those UP businesses that were assessed the single fee, but were not assessed the required surcharge in FY 2006/2007.

CUPA's 1st Update (2-11-10):

Considerations to account for the difference in surcharge submitted to the State:

a. County of Merced sites:

Currently, there are 33 "County sites" (County is the owner/operator) in the Envision Connect database. Of these 33 sites, there were probably 14 sites that were identified in 06-07 but were not invoiced any fees/surcharges, per the internal Division of Environmental Health policy of not invoicing our service fees to other County Departments that are funded by the County General Fund. We did not total up all of the County-owned/operated sites in 2006/2007. We do invoice Departments that are funded by Enterprise Funds (3 sites were invoiced fees/surcharges on 7/09/07, 10/07/07 and in Jan 2008).

14 County sites **not invoiced** X \$24.00 surcharge = **\$336.00 not collected**

b. Farm sites:

In 2006-2007, the CUPA had 101 "farm" records in the Envision Connect database. Review indicates that the farms that were invoiced on the 12/13/06 billing cycle paid the \$24.00 surcharge to Environmental Health.

This is the time period (shortly after the 11/29/06 CUPA Evaluation) in which we were found deficient in not fully regulating agricultural handlers (farms) in the business plan program and the hazardous waste program. Shortly after this, we made a decision to include farms as businesses and regulate/invoice them in the same manner as any other business that had hazardous materials exceeding the threshold amounts.

c. Sites submitted to Revenue and Reimbursement:

Review of CUPA charges versus CUPA funds collected (newly created Envision Connect report #5603) indicates that there may be \$4,099.78 in invoiced fee/surcharge items that were sent to County Revenue and Reimbursement in FY 06-07. Of this total, there may have been approximately \$1,080 worth of CUPA Oversight Surcharges (Envision 5603 report) that were submitted to Revenue and Reimbursement (R&R). Currently we still have a problem in tracking invoices and obtaining reports from R & R once they have been submitted to County R&R. In all of the past fiscal years, invoice line items were keyed as a "correction of a charge", when in fact they were items sent to R&R. Fiscal year 09-10 should be the first complete year where all of the R&R coding should be correct and now traceable within Envision Connect.

CUPA oversight charges submitted to R&R= **\$1,080 not collected in 06/07**

d. Re-examined the number of businesses subject to the CUPA Oversight surcharge for 2006/2007.

A new Envision Connect report (#5624) was created in order to more accurately report the number of business plan facilities in the Envision Connect database for 2006/2007. The report filtered for unique facility ID numbers, or FIDs, and did not report any duplicate FID numbers or any County owned/operated facilities. The report totaled 1,007 FIDs or HMBP business locations for FY 06-07.

For 06/07 there should have been 1,007 sites invoiced. If you also add in the 14 County sites which were not invoiced, then there would have been 1,021 sites under CUPA jurisdiction (not 1,175).

Invoicing 1,007 sites for the \$24 CUPA oversight surcharge would have resulted in \$24,168 in hazmat surcharges. If you subtract the invoices/surcharges submitted to R & R (-\$1,080), then the resulting total of surcharges collected would have been approximately \$23,088, which is less than the \$23,567.10 actually submitted to the state in FY 06-07.

We also constructed an Envision Connect Report (#5603) to total the CUPA oversight charges for 06/07. The report indicates that there was \$24,120 in charges and after corrections, \$23,424 collected. The collected total (\$23,424) is again less than the actual amount submitted to the State for the 06/07 period (\$23,567.10).

Considering sections a-d, it is the position of the Merced County CUPA that no additional CUPA oversight surcharge assessment will need to be made on any businesses from the 2006-2007 fiscal year.

Cal/EPA's 1st Response: The CUPA's explanation of the fee/surcharge assessment discrepancy in FY 06/07 is acceptable and; therefore, this deficiency is considered corrected. The problem appears to have arisen from inaccurate counting of regulated facilities.

- 3. Deficiency:** The CUPA is not conducting inspections with a frequency that is consistent with its Inspection and Enforcement Plan and with the inspection of other program elements. The CUPA inspected 461 of the 743 or approximately 62% of all known HWG facilities generating hazardous waste over the past 3 FYs. The Report 3's submitted by the CUPA for the past three fiscal years indicate the following:
- In FY 2008/2009, 743 HWG facilities were identified of which 146 were inspected
 - In FY 2007/2008, 693 HWG facilities were identified of which 162 were inspected
 - In FY 2006/2007 646 HWG facilities were identified of which 153 were inspected

Preliminary Corrective Actions: By October 28, 2010, the CUPA will inspect at least one-third of its HWG facilities.

The CUPA will inspect all HWG facilities, including tiered permitted facilities, once every 3 years.

CUPA's 1st Update (2-11-10):

Merced County's Inspection and Enforcement Program Plan indicates that we will inspect hazardous waste facilities at least once every three years. The CUPA has developed a plan to perform routine inspections at a minimum of one third of all of the hazardous waste generator facilities each fiscal year. By October 28, 2010, the CUPA will inspect one third of all of the HWG facilities. To meet this goal, we have implemented monthly inspection goals which are reviewed at monthly CUPA meetings. For the 6 month period from July 1, 2009 to December 31, 2009, there were 93 generator inspections (for an average of 15.5 generator inspections/month). With a total of 743 Hazardous Waste Generators in Merced County, the annual goal is 247 HWG inspections per year. A minimum of 21 generator inspections per month (using three inspectors) has been established as our CUPA goal. We are currently not meeting our goal. Adjustments will be made in an attempt to meet the goal of 21 generator inspections per month. We have also implemented an Envision Connect report that indicates what sites are due for inspection each month.

Cal/EPA's 1st Response: The CUPA has developed an acceptable plan to inspect one-third of its HWG facilities. So far, the monthly inspection goal has not been met. Please continue to work toward inspecting one-third or 247 facilities by October 28, 2010.

CUPA's 2nd Update (6/28/10):

For the 6 month period from January 1, 2010 through June 21, 2010, there were 84 generator inspections (for an average of 14 generator inspections/month). With a total of 743 Hazardous Waste Generators in Merced County, the annual goal is 247 HWG inspections per year. A minimum of 21 generator inspections per month (using three inspectors) has been established as our CUPA goal. We are currently not meeting our goal. With the Public Health Department Reductions-In-Force that occurred in September 2009, the CUPA staff continue to be used to occasionally staff/assist with operations at the household hazardous waste site, which contributes to the reduced inspection rate. With the Division of Environmental Health office move across town in March 2010, the CUPA staff was diverted from routine inspections to office and file purging/packing and moving/cleaning, so consequently the routine inspection numbers suffered. The Central Valley Concrete court trial (HWCL violations) also started in April 2010 (ongoing), demanding much court preparation time for one CUPA inspector. Adjustments will be made in an attempt to meet the goal of 21 generator inspections per month and the goal of inspecting one-third of the generator facilities by 10/28/10. (It is anticipated that operation of the household hazardous waste site will be assumed by the County Solid Waste Division in October 2010, thus freeing up a Hazardous Materials Specialist (4th inspector) to branch into the CUPA program, which will increase the CUPA inspection rate).

Cal/EPA's 2nd Response: Cal/EPA appreciates the CUPA efforts to inspect one-third of its HWG facilities by October 28, 2010. Due to a reduction-in-force by the Public Health Department, an office move, and a demanding formal enforcement case the CUPA has been unable to meet its inspection goal each month. Please continue to improve the number of routine inspections performed each month.

CUPA's 3rd Update: [Enter Update Here](#)

4. **Deficiency:** The CUPA has not inspected all stationary sources that are subject to the CalARP program at least once every three years. In the last 3 fiscal years the CUPA inspected 10 of the 41 stationary sources.

Preliminary Corrective Actions: By October 28, 2010, the CUPA will inspect at least one-third of its CalARP facilities.

The CUPA will inspect all CalARP stationary sources once every 3 years.

CUPA's 1st Update (2-11-10):

Merced County's Inspection and Enforcement Program Plan indicates that we will inspect CalARP facilities at least once every three years. The CUPA has developed a plan to perform routine inspections at a minimum of one third of all of the CalARP facilities each fiscal year. By October 28, 2010, the CUPA will inspect one third of all of the CalARP facilities. To meet this goal, we have implemented monthly inspection goals which are reviewed at monthly CUPA meetings. For the 6 month period from July 1,

2009 to December 31, 2009, there were 6 CalARP inspections (for an average of 1 CalARP inspection per month). With a total of 41 CalARP facilities in Merced County, the annual goal is 14 CalARP inspections per year. A minimum of 1 facility per month has been established as our CUPA goal. We are currently meeting our goal. We have also implemented an Envision Connect report that indicates what sites are due for inspection each month.

Cal/EPA's 1st Response: The CUPA has developed an acceptable plan to inspect one-third of its CalARP facilities. Cal/EPA is pleased with the CUPA's progress toward correcting this deficiency. Please continue to work toward inspecting one-third or 14 facilities by October 28, 2010.

CUPA's 2nd Update (6/28/10):

For the 6 month period from January 1, 2010 through June 21, 2010, there were 2 CalARP inspections (for an average of 0.33 CalARP inspections/month). With a total of 41 CalARP facilities in Merced County, the annual goal is 14 CalARP inspections per year. A minimum of 1 CalARP inspection per month has been established as our CUPA goal. We are currently not meeting our goal. With the Public Health Department Reductions-In-Force that occurred in September 2009, the CUPA staff continue to be used to occasionally staff/assist with operations at the household hazardous waste site which contributes to the reduced inspection rate. With the Division of Environmental Health office move across town in March 2010, the CUPA staff was diverted from routine inspections to office and file purging/packing and moving/cleaning, so consequently the routine inspection numbers suffered. Adjustments will be made in an attempt to meet the goal of 1 CalARP inspection per month and the goal of inspecting one-third of the CalARP facilities by 10/28/10. The following CalARP facilities are scheduled for inspections on the following dates: J. Marchini Farms on 6/28/10; Simplot on 6/29/10; Helena Chemical on 7/15/10. Additional CalARP facilities are currently being scheduled for inspection prior to 10/28/10. (It is anticipated that operation of the household hazardous waste site will be assumed by the County Solid Waste Division in October 2010, thus freeing up a Hazardous Materials Specialist (4th inspector) to branch into the CUPA program, which will increase the CUPA inspection rate).

Cal/EPA's 2nd Response: Cal/EPA appreciates the CUPA efforts to inspect one-third of its CalARP facilities by October 28, 2010. Due to a reduction-in-force by the Public Health Department, an office move, and a demanding formal enforcement case the CUPA has been unable to meet its inspection goal each month. Please continue to improve the number of routine inspections performed each month.

- **Cal EMA's Response:** This deficiency remains in the process of being corrected. Cal EMA looks forward to following the CUPA's progress on updating the inspection frequency of all its Cal ARP facilities. Please continue to provide updates for the total number of facilities inspected and total number of facilities in the program.

CUPA's 3rd Update: [Enter Update Here](#)

5. **Deficiency:** The CUPA has not inspected all facilities subject to business plan program at least once every 3 years. During the review of facility files, half of the files reviewed did not have inspection reports dated within the last 3 years. The Report 3's submitted by the CUPA indicate that 44% of the regulated businesses have not been inspected in the past 3 years.

Preliminary Corrective Actions: By October 28, 2010, the CUPA will inspect at least one-third of its business plan facilities.

The CUPA will inspect all business plan facilities once every 3 years.

CUPA's 1st Update (2-11-10):

Merced County's Inspection and Enforcement Program Plan indicates that we will inspect hazardous materials business plan (HMBP) sites at least once every three years. The CUPA has developed a plan to perform routine inspections at a minimum of one third of all of the HMBP facilities each fiscal year. By October 28, 2010, the CUPA will inspect one third of all of the HMBP facilities. To meet this goal, we have implemented monthly inspection goals which are reviewed at monthly CUPA meetings. For the 6 month period from July 1, 2009 to December 31, 2009, there were 127 HMBP inspections (for an average of 21 HMBP inspections per month). With a total of 1061 HMBP facilities in Merced County, the annual goal is 354 HMBP inspections per year (using three inspectors). A minimum of 29.5 facilities per month has been established as our CUPA goal. We are currently not meeting our goal. Adjustments will be made in an attempt to meet the goal of 29.5 HMBP inspections per month. We have also implemented an Envision Connect report that indicates what sites are due for inspection each month.

Cal/EPA's 1st Response: The CUPA has developed an acceptable plan to inspect one-third of its HMBP facilities. So far, the monthly inspection goal has not been met. Please continue to work toward inspecting one-third or 354 facilities by October 28, 2010.

CUPA's 2nd Update (6/28/10):

For the 6 month period from January 1, 2010 through June 21, 2010, there were 139 HMBP inspections (for an average of 23 HMBP inspections/month). With a total of 1061 HMBP facilities in Merced County, the annual goal is 354 HMBP inspections per year (using three inspectors). A minimum of 29.5 inspections per month has been established as our CUPA goal. We are currently not meeting our goal. With the Public Health Department Reductions-In-Force that occurred in September 2009, the CUPA staff continue to be used to occasionally staff/assist with operations at the household hazardous waste site which contributes to the reduced inspection rate. With the

Division of Environmental Health office move across town in March 2010, the CUPA staff were diverted from routine inspections to office and file purging/packing and moving/cleaning, so consequently the routine inspection numbers suffered. The Central Valley Concrete court trial (HWCL violations) also started in April 2010 (ongoing), demanding much court preparation time for one inspector. Adjustments will be made in an attempt to meet the goal of 29.5 HMBP inspections per month and the goal of inspecting one-third of the HMBP facilities by 10/28/10. (It is anticipated that operation of the household hazardous waste site will be assumed by the County Solid Waste Division in October 2010, thus freeing up a Hazardous Materials Specialist (4th inspector) to branch into the CUPA program, which will increase the CUPA inspection rate).

Cal/EPA's 2nd Response: Cal/EPA appreciates the CUPA efforts to inspect one-third of its business plan facilities by October 28, 2010. Due to a reduction-in-force by the Public Health Department, an office move, and a demanding formal enforcement case the CUPA has been unable to meet its inspection goal each month. Please continue to improve the number of routine inspections performed each month.

- **Cal EMA's Response:** This deficiency remains in the process of being corrected. Cal EMA looks forward to following the CUPA's progress on updating the inspection frequency of all its HMBP facilities. Please continue to provide updates for the total number of businesses inspected and total number of businesses in the program.

CUPA's 3rd Update: Enter Update Here